

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: April 6, 2006

Approved

Date

4/11/06

COUNCIL DISTRICT: 7

SNI AREA: None

SUBJECT: PDC00-030. PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT TO A(PD) PLANNED DEVELOPMENT TO ALLOW ENTERTAINMENT USES AT AN EXISTING ASSEMBLY HALL (G. I. FORUM) ON A 3.4 GROSS ACRE SITE, LOCATED 900 FEET NORTHERLY OF STORY ROAD AND APPROXIMATELY 2,300 FEET WESTERLY OF MCCLAUGHLIN AVENUE (765 STORY ROAD)

RECOMMENDATION

Planning staff recommends that the City Council adopt an ordinance approving the proposed rezoning as recommended by staff.

BACKGROUND

On June 7, 2005, the City Council held a public hearing to consider a Planned Development Rezoning from A(PD) Planned Development which allows a private club (American GI Forum) and offices to A(PD) Planned Development to allow the same with the addition of entertainment uses on a 3.4-acre site. The Director of Planning, Building and Code Enforcement and the Planning Commission recommended denial of the proposed rezoning due to very limited information on the project about the details or intensity of the proposed new use. Due to the lack of information, staff was unable to complete environmental clearance as required under CEQA.

The City Council provided the applicant, Abel A. Cota, Executive Director of the American G.I. Forum of San José, an additional 120 days to complete his application. After the required information was received by staff, the rezoning request was scheduled for consideration by the City Council on October 18, 2005. At the time, the Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning. The item was deferred to the November 15, 2005 City Council hearing (Item 11.2) where it was dropped prior to the public hearing taking place.

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The City Council requested a formal response from the Police Department regarding the proposed rezoning. Planning staff worked with the Police Department to get an updated review of the proposal and a response. Updated information from the Police Department was received (see attached memorandum dated 3/7/06). This memorandum provides a discussion of concerns raised by the Police Department.

ANALYSIS

The purpose of this rezoning is to facilitate generation of additional revenue by enabling the GI Forum to lease the facility to outside private promoters. In order to accomplish this goal, the list of allowed uses for the property needs to include an entertainment establishment. Therefore, the only change from the existing zoning to the proposed zoning is the addition of "Entertainment Establishments as defined by Title 20, as amended" in the list of conditional uses which would require a Planned Development Permit.

Parking

The maximum occupancy of the site will be determined by the amount of parking provided. The parking requirements will need to conform to the parking standards in Title 20 of the San Jose Municipal Code. The maximum number of occupants will be determined at the Planned Development Permit stage and will be based on 197 parking spaces.

Event Hours of Operation

The non-club entertainment events will occur in the evenings and on weekends just as the non-club social events do now. The events will occur most often on Friday nights and Saturdays according to the applicant. Unless otherwise approved by a Planned Development Permit, the allowed hours of operation will be limited to the hours of 6AM to Midnight. The subsequent permit could further restrict the hours to ensure that events don't occur during normal business hours when the existing office building is use or ensure that events don't begin during peak hour commute times.

Police Department Concerns

The Police Department is opposed to the American GI Forum being allowed to operate as an entertainment establishment. They state in their memo that the problems associated with this type of establishment are: drunk in public, disturbances, unruly crowds, fights, and traffic congestion. The memo cites that the Downtown currently has the "Entertainment Zone" that includes all of the nightclubs and other entertainment venues. The Entertainment Zone was created and is staffed with additional officers to police this specific area for the problems created as well as monitor the crowds during the closing of the entertainment establishments. District Lincoln, where the project site is located, **does not** have sufficient staff to handle the additional workload that this change would create.

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PUBLIC OUTREACH

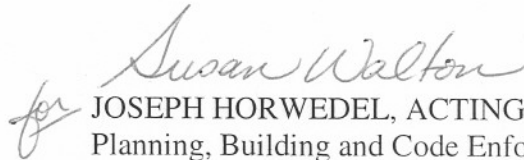
Notices for the April 18, 2006 City Council Hearing were sent to owners and occupants located within 3000 feet of the project site on the south side of Highway 280 and published in the San Jose Post record in conformance with the City's Public Outreach Policy. A community meeting was held on Thursday, July 21, 2005. Notices for the community meeting were distributed to the owners and tenants of all properties located within 500 feet of the project site. No one from the public attended. Notices for the previous public hearings were distributed to the owners and tenants of all properties located within 500 feet of the project site and published in the San Jose Post record. Staff has been available to discuss the project with members of the public. The Planning Commission Agenda, which is posted on the City of San Jose's website includes a copy of the Staff report for this project.

OUTCOMES

Now that the application for the rezoning request and environmental clearance are complete, the City Council has the option of approving the rezoning request.

CEQA

The environmental impacts of this project were addressed by an Addendum to a Mitigated Negative Declaration which consists of new analysis and is documented by an Initial Study and a Mitigated Negative Declaration for the original project, File No. PDC96-043 & PD96-051, and certified as final on January 14, 1997.


for JOSEPH HORWEDEL, ACTING DIRECTOR
Planning, Building and Code Enforcement

Attachments



Memorandum

TO: Jeannie Hamilton
Planning Department

FROM: Officer Rick Galea #3495
San Jose Police Vice Unit

SUBJECT: The American GI Forum
765 Story Road

DATE: March 7, 2006

Approved

Date

I have received your request for input regarding the American GI Forum, 765 Story Road, San Jose, Ca. 95127. In summary, the San Jose Police Department is opposed to the zoning change requested by the American GI Forum for three reasons including (1) the facility being located in an area where the crime rate greatly exceeding the 20% crime index, (2) the inability for the Police Department to sufficiently staff this area outside of the "Entertainment Zone", and (3) the excess of ABC Licenses in the area for both on-sale and off-sale of alcohol. Discussion of these reasons follows.

The American GI Forum currently has a Use Discretion Permit through Planned Development which allows for private functions **closed to the public**. The American GI Forum is seeking expanded use of their permit to allow functions that will be **open to the public**. This expanded use would allow outside promoters to rent the building and bring in different types of entertainment. The promoters would then charge money for tickets at the front door which is one of the main differences between a private banquet hall and a nightclub that is **open to the public**.

Per Business and Professions (B&P) Code Section 23958, the State of California Department of Alcohol Beverage Control shall deny an ABC Application for an ABC License if the issuance of that license would tend to create a law enforcement problem or if it would result in or add to an undue concentration of ABC Licenses, with certain exceptions as described in B&P Sections 23958.4 (a)(1) and 23958.4 (b)(3). A location can be unduly concentrated because of its criminal statistics and/or it's proximity to other ABC Licenses. ABC can issue the license per B&P Sections 23958.4 (b)(1), and 23958.4 (b)(2) if the local governing body determines that the public convenience or necessity would be served. The City of San Jose Planning Department or the Planning Commission are the delegated authorities to grant these exceptions.

765 Story Road is not currently in a Strong Neighborhood Initiative area.

The American GI Forum is located in San Jose Police Beat L2. The reported crime statistics as defined by B&P Section 23958.4(c) **are extremely** over the 20% crime index thus the location **is** considered unduly concentrated per B&P Section 23958.4 (a)(1).

Police Beat Crime Statistics

Beat	Index Crimes	Arrests	Total	20% Above Average
L2 (2005)	666	609	1275	Yes (93%)
City Average	317	345	661	

The index crimes and arrests in police beat Lincoln Two are almost 100% more than the average rate for the city and have the most crimes of any beat in the city. The San Jose Police Department District Lincoln is staffed with a supervising sergeant and six officers after 1:00 AM. Resources are often redirected to handle the overload of calls in this impacted police beat.

The American GI Forum is applying for a zoning change which would allow them to operate this venue as a nightclub instead of a private hall. Problems associated with this type of business are: drunk in public, disturbances, unruly crowds, fights, traffic congestion, etc. Downtown currently has the "Entertainment Zone" that includes all of the nightclubs. The Entertainment Zone was created and is staffed with additional officers to police this specific area for the problems they create as well as monitor the crowds during the closing of the entertainment businesses. District Lincoln **does not** have sufficient staff to handle the additional workload that this change would create.

The Department of Alcohol Beverage Control (ABC) records indicate that the American GI Forum is in census tract 5031.05. Pursuant to B&P Section 23958.4 (a)(3) ... the ratio of on-sale retail licenses and off-sale retail licenses to population in census tract 5031.05 **significantly** exceeds the ratio of on-sale retail licenses and off-sale retail licenses to population in the county in which the applicant premises are located.

Authorized and Current ABC Licenses in Census Tract 5031.05

Census Tract	Authorized ABC Licenses as of August 2005		Current ABC Licenses as of February 3, 2006		Unduly Concentrated	
	On - Sale	Off - Sale	On - Sale	Off - Sale	On - Sale	Off - Sale
5031.05	3	2	9/0	1/0	Yes	No

The San Jose Police Department is concerned about the extremely high crime concentration and ABC license over concentration in this area. These types of issues create a significant policing problem. Allowing the American GI Forum a zoning change will further negatively impact the area and is not in the best interest of the residents of San Jose.

The San Jose Police Department is **opposed** to the zoning change requested by the American GI Forum.

Please feel free to contact me at 277-4322 if you have any questions.

Officer Rick Galea #3495
Administrative Officer
Special Investigations/Vice

COUNCIL AGENDA: 10-18-05
ITEM:



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: September 29, 2005

COUNCIL DISTRICT: 7
SNI AREA: None

SUBJECT: PDC00-030. PLANNED DEVELOPMENT REZONING FROM A(PD) PLANNED DEVELOPMENT TO A(PD) PLANNED DEVELOPMENT TO ALLOW ENTERTAINMENT USES AT AN EXISTING ASSEMBLY HALL (G. I. FORUM) ON A 3.4 GROSS ACRE SITE, LOCATED 900 FEET NORTHERLY OF STORY ROAD AND APPROXIMATELY 2,300 FEET WESTERLY OF MCLAUGHLIN AVENUE (765 STORY ROAD)

RECOMMENDATION

Staff recommends approval of the project as proposed.

BACKGROUND

On June 7, 2005, the City Council held a public hearing to consider a Planned Development Rezoning from A(PD) Planned Development which allows a private club (American GI Forum) and offices to A(PD) Planned Development to allow the same with the addition of entertainment uses on a 3.4-acre site.

The Director of Planning, Building and Code Enforcement and the Planning Commission recommended denial of the proposed rezoning because only very limited information was previously provided by the applicant about the details or intensity of the proposed new use. It was not possible for staff to make a determination that the proposed project would not have a significant environmental impact with respect to noise or traffic without a clear project description. Therefore, the proposed project did not have environmental clearance as required by CEQA. Also, based on the very limited information, it was not possible to make a determination that the proposal would be compatible with the neighborhood.

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The City Council provided the applicant, Abel A. Cota, Executive Director of the American G.I. Forum of San José, an additional 120 days to complete his application. If he wasn't able to do so, the City Council requested staff to return with another recommendation of denial.

The applicant submitted the rezoning request for the purpose of expanding the allowable uses for their existing multi-purpose community hall on Story Road. It was determined a new Planned Development Zoning was needed to allow entertainment uses in addition to the uses currently allowed including, American GI Forum functions relating to the organization and a hall for use by the GI Forum and the community at large for weddings, quinceneras, anniversaries, business and private parties.

ANALYSIS

The purpose of this rezoning is to generate additional revenue by enabling GI Forum to lease the facility to outside private promoters. In order to accomplish this goal the list of allowed uses for the property needs to include an entertainment establishment. Therefore, the only change from the existing zoning to the proposed zoning is the addition of "Entertainment Establishments as defined by Title 20, as amended" in the list of uses which require a Planned Development Permit or Planned Development Permit Amendment on the General Development Plan.

Subsequent to the City Council Hearing, city staff met with the applicant and was able to better understand the detail of the proposal. At this meeting, the applicant was able to clarify the type of new activities proposed, the maximum number of people projected and the hours of operation. Based on this information, staff concluded that the new uses are not particularly more intensive or problematic from those which would be allowed under the current Planned Development Zoning.

The maximum occupancy of the site will be determined by the amount of parking provided. The parking requirements will need to conform to the parking standards in Title 20 of the San Jose Municipal Code. Currently, there are 197 parking spaces on site and no proposal to increase the number of spaces at this time. The parking required for a Private Club or Lodge with fixed seating is one (1) parking space per four (4) fixed seats. Using this criterion, the maximum number of fixed seats, and therefore people, that would be allowed for an event would be 788, assuming no other meeting spaces are being used. If the seating is linear, for an entertainment event for example, the requirement is 1 space per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes. At the Planned Development Permit stage, the applicant will be required to submit a parking analysis to show what type of seating will be used, how many square feet will be designed for meeting or assembly without fixed seats, and how many square feet of the outdoor area will be used for recreational purposes. Unless the applicant secures an off site parking agreement or is able to provide more parking on site, the maximum number of people permitted on the property will be less than the maximum occupancy allowed per Fire Department occupancy standards (1,560 for assembly). The maximum number

of occupants will be determined at the Planned Development Permit stage and will be based on 197 parking spaces.

The non-club entertainment events will occur in the evenings and on weekends just as the non-club social events do now. The events will occur most often on Friday nights and Saturdays according to the applicant. The allowed hours of operation will be determined at the Planned Development Permit stage but will be limited to the hours of 6AM to Midnight. In addition, the hours may be further restricted to ensure that events don't occur during normal business hours when the existing office building is use. Also, events will not allowed to begin during peak hour traffic times if the number of vehicles expected at an even would be at a level expected to create traffic impacts.

Since the change doesn't result in physical changes to the building and the proposed use is similar to the existing use, the Mitigated Negative Declaration for the existing Planned Development zoning is adequate to address the environmental impacts of this project. The office and private club building has already been constructed. Uses currently allowed include rental of the social hall for non-club social functions and the service of alcoholic beverages. The maximum capacity for the building will remain the same under this rezoning. The only change with the proposed rezoning, is to allow the facility to be rented for non-club entertainment functions as well as non-club social function. The entertainment uses may include but are not limited to vocal and instrumental music, dancing, karaoke, comedy and acting, uses which are currently allowed in conjunction with a non-club social function. The proposed use will not result in any new enviromental impacts, in that the uses identified above will continue to occur within the space, but not necessarily in conjunction with a non-club social function.

PUBLIC OUTREACH

A community meeting was held on Thursday, July 21, 2005. Notices for the community meeting were distributed to the owners and tenants of all properties located within 500 feet of the project site. No one from the public attended. Notices for the public hearing were distributed to the owners and tenants of all properties located within 500 feet of the project site and published in the San Jose Post record in conformance with the City's Public Outreach Policy. Staff has been available to discuss the project with members of the public. The Planning Commission Agenda, which is posted on the City of San Jose's website includes a copy of the Staff report for this project.

OUTCOMES

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FOR, STEPHEN M. HAASE, DIRECTOR
Planning, Building and Code Enforcement

Attachments